

Message Text

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ORIGIN DOE-15

INFO OCT-01 AF-10 EUR-12 EA-10 NEA-11 ISO-00 SOE-02
ITC-01 CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00
ICAE-00 INRE-00 AID-05 CEA-01 COME-00 EB-08 H-01
INR-10 INT-05 L-03 OMB-01 PM-05 OES-09 SP-02
SS-15 STR-07 TRSE-00 ACDA-12 PA-01 SIG-03 /150 R

DRAFTED BY DOE/BKRITZER,EW
APPROVED BY EB/ORF/FSE:GAROSEN
EA/TIMBS:RFRITTS
DOE/IA:JTREAT
DOE/LGC:BSMOLER
DOE/EPA-:LLAPPIN

-----011060 290123Z /62

O R 282356Z SEP 78
FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA IMMEDIATE
INFO AMEMBASSY LAGOS
AMEMBASSY ALGIERS
AMEMBASSY TEHRAN
AMEMBASSY TOKYO
AMEMBASSY OSLO

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E.O. 11652: N/A

TAGS: ENRG

SUBJECT: DOE/ERA OPINION ON THE PAC INDO PRICE ESCALATOR

SUMMARY - DOE/ERA WILL ISSUE AN OPINION ON SEPTEMBER 29
(WASHINGTON TIME) APPROVING THE REVISED FOB PRICE ESCALATOR
PROVISION AND THE CURRENCY ADJUSTOR FORMULA. ERA ADMINIS-
TRATOR BARDIN FOUND THAT THIS ESCALATOR PROVIDES CONSUMERS
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WITH PROTECTION AGAINST FUTURE, SUBSTANTIAL OIL PRICE
INCREASES, WHEN VIEWED WITHIN THE CONTEXT OF THE FACTS
OF THIS CASE. THE OPINION ALSO INDICATED THAT FOREIGN
LNG WOULD GENERALLY ASSUME THE LOWEST PRIORITY IN THE HIER-
ARCHY OF USG PREFERENCES FOR DEVELOPING NEW GAS SUPPLIES.
ERA WILL SHORTLY ADDRESS THE REMAINING ISSUES RAISED BY THE
APPLICATIONS FOR REHEARING. GOI OFFICIALS SHOULD NOT

ASSUME THAT THE APPROVAL OF THE PRICE EXCALATOR WILL LEAD TO THE IMMEDIATE RESOLUTION OF THE SITING ISSUE.

1. DOE/ERA ISSUED AN OPINION WHICH APPROVES THE REVISED PRICE ESCALATOR PROVISION AND THE CURRENCY ADJUSTOR FORMULA. ERA WILL SHORTLY ADDRESS THE REMAINING ISSUES RAISED BY THE PETITIONS FOR REHEARING (E.G., MARITIME AND TARIFF ISSUES), AND THEN ISSUE THE JUSTICIABLE REHEARING ORDER ACCORDING TO

SECTION 19(B) OF THE NATURAL GAS ACT. FYI. THE JUSTICIABLE REHEARING ORDER IS THE LEGAL DOCUMENT WHICH WILL IMPLEMENT

THE FINDINGS OF THE SEPT 29 AND SUBSEQUENT OPINIONS. END
FYI.

2. ERA ADMINISTRATOR BARDIN FOUND THAT THE REVISED ESCALATOR FORMULA SATISFIED SOME CONCERNS RAISED IN DOE'S DECEMBER 1977 DECISION. UNDER THE NEW PROPOSAL, ONLY 50 PERCENT OF THE FOB LNG SALES PRICE IS LINKED TO MOVEMENTS IN WORLD OIL PRICES. THE U.S.-BLS FUELS INDEX HAS BEEN REPLACED BY A BROAD-BASED ECONOMIC INDEX, I.E., THE U.S. WHOLESALE PRICE INDEX--ALL COMMODITIES. THE FIFTEEN PERCENT ANNUAL CEILING ON THE CRUDE OIL COMPONENT PROVIDES SOME PROTECTION FOR GAS CONSUMERS AGAINST THE CONSEQUENCES OF DRASTIC CRUDE OIL PRICE INCREASES. MOREOVER, THE SPECIFIC PRICE QUOTATION MECHANISM USED TO COMPUTE THE LIMITED OFFICIAL USE

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CRUDE OIL COMPONENT OF THE ESCALATOR REPRESENTS A BROAD AND ACCURATE MECHANISM FOR MEASURING CHANGES IN ACTUAL CRUDE OIL SALES PRICES. ERA ALSO APPROVED THE FLOW THROUGH OF COSTS ASSOCIATED WITH THE OPERATION OF THIS ESCALATOR FORMULA.

3. BARDIN ALSO INDICATED THAT THIS PARTICULAR ESCALATOR PROVISION WAS APPROVED BASED UPON THE MATERIAL FACTS OF THIS PARTICULAR PROJECT. HE REFRAINED FROM ENDORSING THE USE OF IDENTICAL OR EVEN SIMILAR PROVISIONS IN OTHER LNG PROJECTS.

4. THE OPINION ALSO DISCUSSED THE FUTURE ROLE OF LNG IN U.S. ENERGY MARKETS. DISTANT FOREIGN LNG WILL GENERALLY ASSUME THE LOWEST PRIORITY IN THE HIERARCHY OF USG PREFERENCES FOR DEVELOPING NEW GAS SUPPLIES. U.S. ENERGY POLICY RECOGNIZES THE PRIMACY OF CONVENTIONAL DOMESTIC GAS SUPPLIES. POTENTIAL SUPPLIES WHICH ARE CONSIDERED INTRAMARGINAL WITH RESPECT TO U.S. MARKETS ARE GAS FROM THE ALASKAN NORTH SLOPE, VARIOUS SUPPLIES FROM ADVANCED TECHNOLOGIES APPLIED TO DOMESTIC ENERGY RESOURCES, AND OVERLAND PIPELINE SUPPLIES FROM NEIGHBORING SOVEREIGN

COUNTRIES. MARGINAL SUPPLIES INCLUDE SYNTHETIC NATURAL GAS (SNG) FROM IMPORTED PETROLEUM AND LNG FROM FOREIGN SOURCES.

5. ERA HAS REEXAMINED THE OPERATION OF THE CURRENCY ADJUSTOR IN LIGHT OF PAC INDO'S EXPLANATION, AND CONCLUDED THAT ITS OBJECTIONS IN OPINION NO. ONE WERE IN ERROR. THE APPLICANT WAS CORRECT IN ASSUMING THAT CURRENCY ADJUSTOR PROVIDES FOR AN ABSOLUTE UPPER LIMIT OF TWENTY-FIVE PERCENT ON THE AMOUNT OF THE CURRENCY ADJUSTMENT CALLED FOR BY THIS CLAUSE. THE APPLICANT WAS ALSO CORRECT IN ASSUMING THAT THIS PROVISION ALLOWED FOR DOWNWARD ADJUSTMENT IN THE EVENT OF THE APPRECIATION OF

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THE DOLLAR. THEREFORE UPON REHEARING, ERA HAS APPROVED THE CURRENCY ADJUSTOR AND THE FLOW THROUGH OF COSTS ASSOCIATED HEREWITH.

6. YOU MAY WISH TO INFORM SENIOR GOI OFFICIALS THAT DOE'S OPINION ON THE PRICE ESCALATOR AND THE CURRENCY ADJUSTOR RESOLVES THE OUTSTANDING U.S.-INDONESIAN PRICING ISSUES IN THIS PROJECT. DOE RECOGNIZES THE NEED FOR A PROMPT DECISION ON THE REMAINING ISSUES AND IS STUDYING THE APPLICANT'S MOTION FOR AN EXPEDITED REVIEW PROCESS FOR THE DECISION ON THE LNG TERMINAL SITE. WE WOULD CAUTION, HOWEVER, THAT THE GOI SHOULD NOT INTERPRET THIS OPINION AS AN INDICATOR THAT THE OUTSTANDING PROCEDURAL AND SUBSTANTIVE ISSUES IN THIS CASE WILL NECESSARILY BE RESOLVED FAVORABLY.

7. DEPT WILL POUCH COPIES OF OPINION AND PRESS RELEASE WHEN AVAILABLE. CHRISTOPHER

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